

JUL 28 2006

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

FOR THE NINTH CIRCUIT

SENECIO VILLEGAS MANGUBAT; et
al.,

Petitioners,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 04-74309

Agency Nos. A75-281-268
A75-281-270

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted July 24, 2006**

Before: ALARCÓN, HAWKINS, and THOMAS, Circuit Judges.

Senecio Villegas Mangubat and Marissa Cagampan Mangubat, natives and
citizens of the Philippines, petition for review of the Board of Immigration

* This disposition is not appropriate for publication and may not be
cited to or by the courts of this circuit except as provided by Ninth Circuit Rule
36-3.

** The panel unanimously finds this case suitable for decision without
oral argument. *See* Fed. R. App. P. 34(a)(2).

Appeals’ (“BIA”) order denying their motion to reopen deportation proceedings to permit them to apply for adjustment of status. To the extent we have jurisdiction, it is conferred by 8 U.S.C. § 1252. We review for an abuse of discretion, *see Singh v. INS*, 295 F.3d 1037, 1039 (9th Cir. 2002), and we deny in part, and dismiss in part, the petition for review.

The BIA did not abuse its discretion when it denied as untimely the Mangubats’ motion to reopen, filed 22 months after the BIA’s final order of removal. *See id.* at 1039 (stating that this court will reverse a denial of a motion to reopen only if arbitrary, irrational, or contrary to law).

We lack jurisdiction to review the Mangubats’ contention that the BIA should have sua sponte reopened their proceedings, because the decision of the agency whether to invoke its sua sponte authority is committed to its unfettered discretion. *See Ekimian v. INS*, 303 F.3d 1153, 1159 (9th Cir. 2002) (internal citations omitted).

PETITION FOR REVIEW DENIED in part, and DISMISSED in part.